

1  
2  
3  
4  
IN THE UNITED STATES DISTRICT COURT  
5  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
6

7 RODOLFO R. MIRAMONTES, )  
8 Plaintiff(s), ) No. C 09-0325 CRB (PR)  
9 v. ) ORDER OF DISMISSAL  
10 HERBIE DEL CRUZ, et al., )  
11 Defendant(s). )  
12 \_\_\_\_\_ )  
13

14 Plaintiff has filed a letter which the court construes as a notice of  
15 voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1) and, pursuant  
16 thereto, the above-captioned matter is DISMISSED without prejudice. See  
17 American Soccer Co. v. Score First Enters., 187 F.3d 1108, 1110 (9th Cir. 1999)  
18 (plaintiff's "absolute right" to dismiss his action voluntarily before defendants  
19 serve answer or motion for summary judgment leaves no role for court to play).

20 Based solely on plaintiff's affidavit of poverty in accompanying case C 08-  
21 5639 CRB, his request to proceed in forma pauperis is granted.

22 The clerk shall enter judgment in accordance with this order and close the  
23 file. An order in case C 08-5639 will issue shortly.

24 SO ORDERED.

25 DATED: Feb. 04, 2009

  
26 CHARLES R. BREYER  
27 United States District Judge